

REMARKS

Claims 1 - 13 are in this application and are presented for reconsideration. By this Amendment, Applicant has added new Claims 9 - 13 to properly clarify the subject matter which defines over the prior art and to address the rejection in the office action dated September 29, 2004. The new independent claim 9 clarifies the combination of features found in claims 1 and 3 while the new dependent claims 10 - 13 include subject matters substantially similar to the subject matters contained in claims 2 and 4 - 6. The new claims do not add any new matter to the application.

By this Amendment, Applicant has added new claim 9 to highlight the important differences between the invention and the prior art as a whole. Although it should have been appreciated in the original claims that one hollow body defines the filtering chamber and the longitudinal channel, Applicant has changed the wording to "hollow body encasing a filtering chamber containing a removable filter and at least one longitudinal channel" as it is believed this clarifies the subject matter of the invention.

By this Amendment, the Applicant respectfully makes assertions for overcoming the rejections of the outstanding Office Action dated September 29, 2004 in the following paragraphs.

CLAIM REJECTIONS - 35 U.S.C. SECTION 102

Claims 1, 2, 4, 6, and 7 have been rejected as anticipated by Kudlaty (US Patent No. 3,341,018, "Kudlaty '018", hereinafter). The rejection is based on the position that Kudlaty

‘018 discloses each and every feature arranged as specified in the claims. Applicant notes that the reference fails to teach each feature as specified in the claims and arranged as specified in the claims.

Specifically, Claim 1 requires among other things:

“...one hollow body defining a filtering chamber and around this at least one longitudinal channel, a first end connection for coupling an aspiration piece to one end of said body...”

This structure is certainly not present in Kudlaty ‘018 reference. An obvious point of disagreement with regard to the reading of the claims and the fair reading of the Kudlaty ‘018 reference relates to whether Kudlaty ‘018 has a hollow body defining a filtering chamber and a longitudinal channel within. Claim 1 clearly requires both the chamber and the channel to be located within the hollow body. In contrast, Kudlaty ‘018 shows element (63) clearly outside element (10). Thus, the Kudlaty ‘018 reference does not anticipate the present invention as claimed.

Furthermore, Kudlaty ‘018 reference also fails to describe the first end connection and the second connection connected to an aspirator. In essence, Kudlaty ‘018 discloses a filter for industrial use wherein the portion 76 and the part 78 are not connected to an aspirator as provided in claim 1 claiming the present invention.

Since claims 2, 4, 6, and 7 depend on claim 1, the dependent claims also read over the prior art reference of Kudlaty ‘018.

In summary the Kudlaty '018 reference discloses at least a chamber portion (63) outside the tubular filter housing (10) and does not disclose a connection to an aspirator at all. As the invention requires the longitudinal channel to be inside the hollow body and combination of features including connections to aspirator, the invention is not anticipated by Kudlaty '018 reference. Accordingly, fair interpretation of the Kudlaty '018 reference leads to the conclusion that the reference fails to teach and fails to suggest each feature arranged as specified in the claims.

CLAIM REJECTIONS - 35 U.S.C. SECTION 103

Claims 3 and 8 have been rejected as being obvious based on the teachings of Kudlaty '018 in view of Jousson (US Patent No. 4,907,744, "Jousson '744", hereinafter).

The rejection is based on the position that Kudlaty '018 reference discloses a filtering device as described in claim 1 of the present application. As Kudlaty does not disclose the use of the diverter means as pressed and kept in a first position by a spring and engaged and linearly movable in a second position by a button, the Jousson '744 reference is relied for showing these features.

The spring (27) and engagement and movement into a second position by a button (6) in Jousson '744, as suggested by the Office Action does not provide the basic structural features which would make the teachings useful for carrying over to the Kudlaty '018 reference. With the Jousson '744 reference, an oral hygiene device is disclosed which, however, does not include a filter, and is only suitable for spraying a single or multi-jet. Such

spraying apparatus is not designed to be connected to an aspirator and has an opposite functionality.

Furthermore, and more importantly, Kudlaty '018 does not disclose a button for manual control of the flow nor a motivation for using such a button for surgery. Accordingly, without these features there is no motivation and no incentive for the person of ordinary skill in the art to bring over a button and spring assembly into the Kudlaty '018 reference from Jousson '744 reference. Thus, the rejection relies on Applicant's teachings for the motivation to combine the particulars of Jousson '744 into Kudlaty '018.

The person of ordinary skill in the art in considering Kudlaty '018 reference and Jousson '744 reference would at best be directed to providing filter to a spraying instrument having two hollow bodies instead of one. However there is no suggestion to provide these to form a single hollow body including a filter chamber and a longitudinal channels with divergent means controlled by a manual button. Certainly the person of ordinary skill in the art would not transfer features relating to an industrial use to an oral hygiene device which is not a filter, but is only suitable for spraying a single or multi-jet and is not designed to be connected to an aspirator. The prior art must have some teaching or suggestion which would lead the person of ordinary skill in the art toward the combination claimed in an obviousness manner.

The Jousson '774 reference also clearly fails to teach and fails to suggest the combination of the invention. Absent a teaching or suggestion of the important feature of the invention, the combined references clearly do not direct the person of ordinary skill in the art

toward the combination as claimed.

There must be some suggestion or teaching in the prior art as a whole which would lead the person of ordinary skill in the art to provide the combination as claimed. As the prior art as a whole fails to direct the person of ordinary skill in the art toward the claimed combination, the invention should be considered not anticipated, non-obvious and thus patentable.

Therefore, Applicant finds that the Kudlaty '018 reference does not anticipate the current invention and there is no suggestion or motivation to use the teachings of the references to provide the combination as claimed by combining the Kudlaty '018 reference with the Jousson '744 reference.

As the prior art fails to suggest the combination of features as claimed, Applicant respectfully requests that the Examiner reconsider the rejection in view of the new claims and in view of the discussion above.

At this time, Applicant respectfully requests reconsideration of this application in view of the above amendments and remarks, and Applicant respectfully solicits allowance of this application. Should the Examiner determine that issues remain that have not been resolved by this response, the Examiner is requested to contact Applicant's representative at the number listed below.

Favorable action is requested.

Respectfully submitted
for Applicant,

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